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The Surfrider Foundation, our 27,000 national members, our Environmental Issues Team and our twenty California Chapters (representing over 16,000 Californians) respectfully submit the following comments on the California Resources Agency's Draft Policy of Coastal Erosion. This review was conducted by our Environmental Issues Team, which I was a part of, and includes twenty representatives from California, Oregon, North Carolina and Florida with backgrounds that include Ph.D. research scientists, registered physical engineers, medical doctors, coastal activists and surfers.

The Surfrider Foundation is dedicated to the protection and enjoyment of the world's waves and beaches for all people, through conservation, activism, research and education.

Our review consists of three sections: comments specific to the Draft California Erosion Policy (the Policy), suggested additions to the Policy and comments about the implementation of the Policy.

**Comments specific to the Policy:**

(These comments are in order of the document, not in priority order)

In general the policy represents a significant improvement in the way that the Resources Agency has traditionally approached coastal erosion problems. The prospect of a coordinated approach for all sub-agencies is also commendable.

**Page viii of the Background Material For Draft Policy:**

The definition and use of the word "development" is unclear throughout the policy. The word does not distinguish between existing structures and future or planned structures. The definition is too broad to be used in this report, for the purposes of protecting "development". For example, this definition includes empty lots with utilities on them.

We suggest the replacement of the word development with "new structures" and "existing structures" where appropriate. This would comport with the California Coastal Act Sections 30235 and 30253. The use of "existing" must be defined relative to the enactment of the Coastal Act.

**Page 2, Section I.** “Funding federal, state or local coastal protection or shoreline enhancement...”

There is no adequate definition of “coastal protection and shoreline enhancement”. Does the coast need protection or do coastal structures need protection? What does shoreline enhancement mean?

**Page 2, I. Over arching Principles:**

In this section we suggest that “shoulds” be replaced with “shall” in all instances.

**Page 2, I.C.:**

Please define regional analysis. Define regional and what specifically will be analyzed and by whom.

**Page 2.I, D:**

“Multi-objective regional approaches” may create a contradiction in the policy where one objective is the protection of structures and the other objective is the protection of the beach.

**Page 2.I,E:**

In this section it is unclear. “Restoration of beaches should be pursued where it is deemed that further loss of the beach... is unacceptable. What is the criteria for “unacceptable” and what is the mechanism for deciding.

**Page 3, F2 & F3:**

**F2:** In cases where existing development is threatened, a first priority should be to evaluate the feasibility of relocating such development. A second priority should be to evaluate the use of beach nourishment to reduce the threat or risk of erosion to existing development, if it is feasible and can be used effectively, without significant effects on the environment.

**F3:** The use of hard structures should be considered only after these and other less environmentally damaging alternatives are evaluated and deemed infeasible.

The validity of this policy is also dependent on the interpretation of development. The definition of “development” must be defined clearly and in comport with the California Coastal Act. In addition the California Coastal Act must be interpreted to remove the conflict between Sections 30235 and 30253.

Under Section 30235 of the Coastal Act, existing development is given a right to a seawall assuming impacts to sand supply are mitigated.

§30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent

uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

However, under Section 30253, New Development is not entitled to a seawall (2).

§30253. New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.

(4) Minimize energy consumption and vehicle miles traveled.

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed policy for Coastal Erosion does not address this issue. We must clearly define existing structures as those that predate the Coastal Act, since those that were developed after the Coastal Act clearly have no right to protection and should have been designed to "*[a]ssure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*"

Existing structures should only be entitled to protection if all impacts are mitigated and to the extent that they have a remaining economic life.

### **Page 5-6, III. COASTAL PROTECTION PROJECTS.**

This section deals with how to respond in the event that development is threatened. This policy seems to be in conflict with the background information of the policy.

DEVELOPMENT along 85% of the coast will eventually be in danger from erosion since 85% of the coastline is actively eroding. The criteria in Section B allowing for construction of seawalls will always be met:

**B.** Construction of seawalls, revetments, breakwaters, groins, or other artificial rigid structures for coastal erosion control should be discouraged unless each of the following conditions are met:

1. No other non-structural alternative is effective or feasible to reduce erosion risk over the useful life of the protected development;
2. The project is to serve a coastal dependent use or to protect an existing principal development or public beach in danger from erosion;
3. The project is consistent with the erosion solutions presented in the certified local coastal plan or other regional coastal management plan that identifies and comprehensively addresses regional coastal hazard issues;
4. A report by a licensed geologist demonstrates that a primary structure is at imminent risk from coastal erosion. Further, conclusive evidence should be presented in a report by a licensed engineer that a protective device is designed and can be constructed and maintained to withstand the specified design criteria that reflect the range of conditions that exist at the project site, and will successfully mitigate the effects of coastal erosion while minimizing the significant effects of the project on other sections of the shoreline;
5. There will be no net reduction in public access to, and use and enjoyment of, the natural coastal environment, and construction of a protective device will preserve, enhance or provide access to related public recreational lands or facilities;
6. The project will not have significant effects on cultural, and paleontological resources, or living marine resources and habitats; and
7. Measures are included to ensure that the protective structure can and will be maintained through its design life and removed at the expense of the project sponsor if the protective device fails or has an unmitigated effect on other sections of coastline, or is no longer necessary.

**B2**, should read as follows:

2. The project is to serve a coastal dependent use or to protect an existing principal development to the extent that it has remaining economic life or public beach in danger from erosion and if impacts to sand supply and beach access are mitigated over the life of the structure;

**B4** has been abused in the past. Geologists make one set of reports to justify development under 30253 and another set to justify a seawall under 30235. B4 should read:

4. A report by a licensed geologist demonstrates that a primary structure is at imminent risk from coastal erosion. Further, conclusive evidence should be presented in a report by a licensed engineer that a protective device is designed and can be constructed and maintained to withstand the specified design criteria that reflect the range of conditions that exist at the project site, and will successfully mitigate the effects of coastal erosion while minimizing the significant effects of the project on other sections of the shoreline. Project applications must be subjected to review by resource agency appointed engineers and geologists at their expense to certify the findings of their engineer and geologist;

**Section D** should be modified from

**D.** Projects should not cause the loss or destruction of public beaches, dunes, and coastal accessways.

to

**D.** Projects shall not cause the loss or destruction of public beaches, dunes, and coastal accessways.

Since it is the intent of this policy to protect and preserve natural resources.

**Suggested additions to the Policy**

The place where the CA Draft Erosion Policy falls short is that it does not outline a strategy for planned retreat that accomplishes nearly all of the goals of the policy in hazard avoidance and preservation. Outlined below is a planned retreat policy that should in some way be part of the State Erosion Policy. This is a part of a document submitted by CalBeach Advocates at the Solana Beach EIR Scoping Meeting:

**Planned Retreat Alternative**

An alternative to structures that would strike a balance between public and private rights is the “planned retreat” alternative, which should be discussed in detail in the policy.

**Background:**

The long-term goal is restoration and maintenance of the natural sandy beach, nearshore environment, and sandstone bluffs. This acknowledges the inevitability of bluff erosion in a geologic era marked by naturally caused shoreline retreat and rising sea level. Natural bluff retreat due to erosion is environmentally beneficial because it contributes sand to the beach, results in maintaining beach width, and sculpts the bluffs into visually attractive natural landforms. Natural bluff retreat is economically beneficial because, among other reasons, it enhances the recreational value of the coastline and reduces dependence on costly shoreline protection measures.

## **The Planned Retreat Approach:**

The basic approach is to develop and implement policies and programs to ensure that present and future coastal development is consistent with the long term restoration and maintenance of the natural conditions, including restoration of natural sand flow to and along the coast, and the reasonable economic expectations of private property owners.

### **Implementation:**

**Sand replenishment projects.** These will widen the sandy beaches and slow down current high rates of erosion and thereby reduce the need for additional shoreline protective devices. They will also restore sandy beach recreational opportunities.

**Bluff top development regulatory policies.** Adequate setbacks are required to ensure that new approved development will not require shoreline protection within the useful economic life of the structure. History shows that structures have been built too close to the bluff edge. Therefore, an effective Planned Retreat alternative would establish setback lines including a "no new development" line which would be set no further seaward than the estimated bluff retreat line in 50 years, plus a margin of error. A second "planned retreat" setback line should be set no further seaward than the estimated bluff retreat in 100 years, plus a margin of error. Revise the setback lines periodically. No new development (defined as any development which increases the useful economic life of the existing structure) should be allowed seaward of the "no new development" setback line. Independent expert reports should be required to establish that a greater setback is not required for new development landward of the "no new development" setback. All new development should be conditioned on an enforceable waiver of any right to build shoreline protection structures. Impose other conditions as required to ensure that new development does not increase rate of bluff erosion, including drainage and landscaping conditions.

**Shoreline protection projects.** Key aspects would include:

- \* Permit only to the extent necessary to protect existing structures.
- \* Permit only if there are no other feasible alternatives, such as underpinning the structure, relocating the threatened portion, or removal of the threatened portion even if the alternatives are more expensive.
- \* Limit life of shoreline protection structure to remaining useful economic life of the existing structure to be protected.
- \* Impose conditions to require construction method, which makes removal at end of permit life feasible.
- \* Require bond or other security to ensure removal at end of permit life.

\* Impose adequate sand loss mitigation fees or other mitigation to compensate for the harm caused during the full permit life of the structure.

**Staged public acquisition of property.** Key aspects would include:

\* Acquire the properties seaward of the planned retreat line through purchase or eminent domain. As the planned retreat line moves landward, acquire additional properties.

\* Acquire the future ownership right to the properties on a discounted present value basis. The future ownership right would be 50 years off for properties located between the planned retreat and no new development setback lines. The future ownership right would be the remaining useful economic life of the existing structure for properties located seaward of the no new development line, but no more than 50 years.

**Comments about implementation:**

Although this policy has great potential to improve the manner in which we protect our beaches and nearshore coastal resources, it will only be effective if the policy is enforceable. Therefore we recommend that this policy be put through the rule making process so that it is codified in each sub-agency of the California Resources Agency. Without such action the true effectiveness of the guidance document is severely limited.

Thank You.

My Name is Michael Paquet, and I'm the environmental Coordinator for the San Francisco Chapter of Surfrider Foundation. I am here today representing not only our local chapter, but all the 30,000 members Nation-wide, and especially the 20 California Chapters with over 16,000 members State-wide.

Surfrider Foundation is a National and International non-profit volunteer organization dedicated to the protection and enjoyment of the worlds waves, beaches, and oceans for all people through conservation, activism, research and education.

It is about time that California started tackling the challenges of coastal erosion planning and response. The Draft policy by the Davis administration and the California Resources Agency is a good first attempt at resolving the lack of inter-agency coordination and the lack of appropriate planning and response to past and current coastal erosion problems.

However, it is what the Policy does not say that worries Surfrider most. About 85% of the California coast is actively eroding, and the huge amount of development along the coast is in these high-risk areas. What is not in danger now, will most likely be in danger in the future. I'm here today because the coast is in danger, not from erosion, but from inappropriate development and "so-called" shoreline protection devices like seawalls.

As far as this Draft Policy goes, its validity will be dependant upon its' interpretation of the word "DEVELOPMENT". Development has not been defined as it should be, AND it must be made consistent with the California Coastal Act.

In addition, the California Coastal Act must be interpreted to remove the conflict between sections 30235 and 30253.

Section 30235 provides for seawalls and other protective structures only to EXISTING developments—"existing" meaning prior to the Coastal Act, or prior to 1972. This is clearly the meaning of "existing" based on Coastal Act law. It also says that these "existing" structures (prior to 72) should ONLY be entitled to protection if all impacts are mitigated, and to the extent that the structure has a remaining economic life.

All "NEW" developments must comply with Section 30253, and they are NOT entitled to a seawall. This is what it says:



*"New development . . . shall neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."*

This is clearly NOT how the law is currently being interpreted by the California Coastal Commission. Seawalls and other hard structures are being permitted up and down the coast at an alarming rate. New developments are also being approved, even though they do not provide adequate protection or mitigation of the beaches and shoreline. To be effective, the Policy must clearly address these issues and it does not.

What the policy needs to do is to balance the needs of the property owners and that of the coastal environment with a "Planned Retreat" approach. The policy must outline a strategy for planned retreat in order to accomplish the goals of hazard avoidance and beach preservation, as stated in this Policy.

The basic approach is to develop and implement policies and programs that ensure present and future coastal development will be consistent with the long-term restoration and maintenance of the natural conditions. This includes restoration of natural sand flow to and along the coast, and it should give reasonable economic expectations to private property owners without misleading them to believe that their rights to a seawall out-weight the rights of all other beach users.

I'd like to end with mentioning the oxymoron called "Shore Protection".

Since when does the shore need protection from natural erosion? Its been doing fine without our help! What they usually mean by shoreline protection is actually protection for some inappropriate development or structure, and not shoreline protection.

Contrary to popular belief, Seawalls do not protect the shoreline nor the beaches, they usually only destroy them to protect some "structure" at the expense of the beaches and the public.

The shore only needs protection from inappropriate development, and in a hurry! Hopefully, you will revise this Draft Policy so that it CAN be used as an effective long-term planning document And so that it will comply with the California Coastal Act to protect our public beaches and natural shoreline, as was intended.

And I now submit for the record, a formal comment letter to the Draft California Erosion Policy. Thank you for your time and consideration.

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